IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTY DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 18277 of 2004

Between:

K.L. Livingston, S/o. K.V. Leander,
Nagarkurnool Bus Depot, Mahabubnagar District.

... PETITIONER

AND

1 The Depot Manager, APSRTC, Nagarkurnool Bus Depot, Mahabubnagar District.
2 The Depot Manager, APSRTC, Wanaparthy Bus Depot, Mahabubnagar District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents herein in imposing the punishment of deferment of annual increment of the petitioner for a period of two years which shall have effect on future increments as bad, arbitrary, illegal unjust and unreasonable and violative of principles of natural justice and contrary to the judgments of this Court and Apex Court by setting aside the final order No. 02/62(266)/91-WNP dated 23-12-1993 of Respondent No.2 herein and consequently direct the respondents to add the deffered increments and pay arrears to the pay of the petitioner and to pass such other order or orders as this Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondent Nos.1 and 2: MR.P.VINAYAKA SWAMY, SC FOR APSRTC

The Court at the admission stage made the following:

Oral Order:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on 30-7-1991 and after receiving the explanation of the petitioner, the final orders were passed on 23-12-1993 imposing the penalty of reduction of one incremental stage for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of two increments with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 11 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in **Kulwant Singh** Gill (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of two increments without cumulative effect.

The Writ Petition is accordingly disposed of with the above o observations.

(Dr.G. Yethirajulu, J)

07th October 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Depot Manager, APSRTC, Nagarkurnool Bus Depot, Mahabubnagar District.
2 The Depot Manager, APSRTC, Wanaparthy Bus Depot, Mahabubnagar District.

3 Mr.P.Vinayaka Swamy, Standing Counsel for APSRTC (OPUC)

4 Mr.P.Venkataeswara Rao, Advocate (OPUC)

5 2 CD copies